

GUIDELINES FOR LITIGANTS WITHOUT LAWYERS
SOUTHERN DISTRICT OF TEXAS

1. Introduction

- A. These guidelines are to make persons who represent themselves in lawsuits familiar with some of the rules and procedures which must be followed in the United States District Court for the Southern District of Texas.
- B. Disclaimer. This summary does not take the place of a pro se litigant's responsibility to comply with the Local Rules (L.R.), the Federal Rules of Civil Procedure (Fed.R.Civ.P.) and all other laws. This summary is not legal advice and reliance on it is at your own risk.

2. The Complaint

- A. A civil lawsuit is begun by filing a complaint in the office of the Clerk of the Court. The purpose of the complaint is to give notice to the persons being sued and to the court about the nature of the lawsuit. The complaint must contain:
 - 1. a caption specifying the court in which the suit is brought and names of the parties;
 - 2. a short, plain statement of why the court has jurisdiction;
 - 3. a short, plain statement of the claim that entitles the plaintiff to relief, including a concise statement of the facts;
 - 4. a statement of the particular relief sought; and
 - 5. your signature, address and telephone number.
- B. Pleadings should be simple and direct; technical, legal jargon is not required.
- C. Generally, each statement of claim should be made in separately numbered paragraphs, with each paragraph limited as far as possible to a statement of a single set of facts.
- D. If the basis of your suit is employment discrimination, there is a form attached which you may use for filing your complaint. (Appendix A) If your suit has any other nature, the Original Complaint form attached (Appendix B) may be used to get started.

3. Where to File

- A. Clerk. All papers to be filed must be delivered or mailed to the Clerk's Office. Never send papers directly to the judge.

B. Options. Generally, the suit must be filed in the district where the defendant resides or where the claim arose. In suits based on diversity of citizenship (when the plaintiff and defendant are residents of different states), the suit may be brought in the district where the plaintiff resides (28 U.S.C. §1391).

C. Divisions. There are seven divisions of the Southern District of Texas:

1. Brownsville
 - a. Mail and Delivery: 600 E. Harrison Street, Room 101
Brownsville, TX 78520
 - b. Counties: Cameron and Willacy.
2. Corpus Christi
 - a. Mail and Delivery: 1133 North Shoreline Boulevard
Corpus Christi, TX 78401
 - b. Counties: Aransas, Bee, Brooks, Duval, Jim Wells, Kenedy, Kleberg, Live Oak, Nueces and San Patricio.
3. Galveston
 - a. Mail: P.O. Box 2300
Galveston, TX 77553
 - b. Delivery: 601 Rosenberg, Room 411
Galveston, TX 77550
 - c. Counties: Brazoria, Chambers, Galveston and Matagorda.
4. Houston
 - a. Mail: P.O. Box 61010
Houston, TX 77208
 - b. Delivery: 515 Rusk, Room 1217
Houston, TX 77002
 - c. Counties: Austin, Brazos, Colorado, Fayette, Fort Bend, Grimes, Harris, Madison, Montgomery, San Jacinto, Walker, Waller and Wharton.
5. Laredo
 - a. Mail: P.O. Box 597
Laredo, TX 78042
 - b. Delivery: 1300 Matamoros
Laredo, TX 78042
 - c. Counties: Jim Hogg, LaSalle, McMullen, Webb and Zapata.
6. McAllen
 - a. Mail and Delivery: 1701 West Business Highway 83, Suite 1011
McAllen, TX 78501
 - b. Counties: Hidalgo and Starr.

7. Victoria
 - a. Mail: P.O. Box 1638
Victoria, TX 77902
 - b. Delivery: 312 S. Main Street, Room 406
Victoria, TX 77901
 - c. Counties: Calhoun, De Witt, Goliad, Jackson, Lavaca,
Refugio and Victoria.

4. Requirements for Filings

- A. The requirements for filing the complaint and all other pleadings are found in LR5 and LR10 as well as Fed.R.Civ.P. 10 and 11. They include
 1. be on 8½" x 11" paper;
 2. be double spaced and paginated;
 3. stapled at the top only;
 4. punched with two holes;
 5. include the plaintiff's address and telephone number; and
 6. be signed by the plaintiff.
- B. Address. Failure of a litigant to keep the Clerk of the Court informed of his current address and telephone number during the pendency of the lawsuit. (LR83.4)

5. Filing Fees

- A. The fee for filing a civil action is \$350.00. Filing fees must be paid to the Clerk at the time of filing the complaint, unless the Court grants leave to proceed in forma pauperis.
- B. In Forma Pauperis:
 1. A plaintiff who cannot pay the filing fee and the costs for service may request to proceed in forma pauperis. (Appendix C) The request must be submitted with the complaint and must be accompanied by an affidavit setting forth the plaintiff's financial resources.
 2. If leave to proceed in forma pauperis is granted, the plaintiff's suit will be filed without prepayment of the filing fee.
 3. If leave to proceed in forma pauperis is denied, you must pay the filing fee for your case (suit) to be filed.

6. Judge's Procedural Manual

A procedure manual containing information about the specific requirements of a particular judge is posted on our website.

7. Scheduling Conference

Also, at the time a suit is filed the following will be provided to the plaintiff:

- A. Order for Conference. This conference will be set within 140 days of the filing of the complaint. At the conference a scheduling order will be signed by the judge which will set deadlines, as well as, a trial date. (L.R. 16.1)
- B. Instructions for the Preparation of the Joint Report of Meeting and Discovery/Case Management Plan under Rule 26(f) Fed.R.Civ.P.

8. Service of Process (Summons)

- A. Issuance of Summons. Upon the filing of a complaint, the plaintiff is responsible for prompt service of the summons and a copy of the complaint on each of the defendants named in the complaint. (Fed.R.Civ.P. 4 and L.R. 4) Failure to serve the summons and complaint within 120 days after filing of the complaint is grounds for dismissal of each party not served.

In addition to the summons, the above mentioned Order for Conference and the Instructions for the Preparation of the Joint Report of Meeting and Discovery/Case Management Plan must be served on all defendants.

A summons must be prepared in duplicate by the plaintiff for each defendant. (Appendix D) In addition, the plaintiff must submit a copy of the complaint for each defendant at the time the complaint is filed. The summons must show the time within which the defendant is required to respond to the complaint. All defendants have twenty-one (21) days, with the exception of the United States which has sixty (60) days to respond. The time runs from the date the defendant is served with the complaint.

The summons will be signed and sealed by the Clerk and returned to the plaintiff together with the copies of the complaint to be served. The plaintiff must then serve the summons and complaint as provided by Fed.R.Civ.P. 4. To avoid costs, the plaintiff may notify a defendant of the commencement of the action and request that the defendant waive service of a summons. (See Fed.R.Civ.P. 4(d) and Appendices E and F)

When an agency of the United States is named as a defendant, the summons must be served on:

- 1. the agency named,
- 2. the Attorney General of the United States in Washington, D.C., and
- 3. the United States Attorney. It is required that the U.S. Attorney (or an assistant U. S. attorney or clerical employee designated by the U. S.

Attorney) for the district in which the action is brought be served by sending a copy of the summons, complaint and other documentation previously mentioned by registered or certified mail addressed to the civil process clerk at the office of the United States Attorney. (See Appendix G for a list of designees and addresses.)

The summons may be served by anyone over 18 years of age, who is not a party to the suit.

- B. Proof of Service. Finally, the plaintiff must return to the court proof that the defendants have been served in accordance with Rule 4(l) of the Federal Rules of Civil Procedure.

If service is not waived, proof of service must be filed with the Clerk. Where service is made other than by mail, proof of service may be made by completing the return on the back of the summons form and returning it to the Clerk.

It is the responsibility of the person serving the summons to prepare and submit the forms showing proof of service once it is made. (Fed.R.Civ.P. 4(l)) Plaintiffs should read Local Rule 4 and Rule 4 of the Federal Rules of Civil Procedure to become thoroughly familiar with the procedures governing service of process.

9. Assignment of Cases

Civil cases are assigned at random to the judges of the district court. Assignments are made so that no party or lawyer may choose which judge will hear the case.

10. The Answer

- A. The defendant in an ordinary civil case will have twenty-one (21) days from the date of service of the complaint to file an answer. The United States or a federal official will have sixty (60) days.
- B. Just as the plaintiff in the complaint must make a short, plain statement of the claim, the defendant in the answer must state the defenses to the claims and either admit or deny the specific allegations contained in the complaint. (Fed.R.Civ.P. 8(b))
- C. As with all other pleadings, the defendant must file the answer with the Clerk and serve a copy on the opposing party. Failure to answer or otherwise defend in a timely fashion is grounds for judgment by default against the defendant. (Fed.R.Civ.P. 55)

11. Motions against the Complaint

- A. Although most defenses to a complaint must be asserted in the answer, a defendant has the option of asserting certain defenses in the form of a motion to dismiss the complaint before filing an answer. (A motion is an application to the

Court asking that the Court take some particular action in the case.)

B. Motions to dismiss the complaint typically make the following arguments:

1. the Court lacks the power to decide the subject matter of the case or to compel a defendant to appear;
2. service of process was insufficient; or
3. the complaint fails to state a claim which the law will recognize as enforceable. (Fed.R.Civ.P. 12(b))

C. If such a motion is made, a plaintiff will have twenty-one (21) days from the date of filing in which to file a response. It is very important to respond to such motions; otherwise, the Court may assume that the motion is unopposed. (L.R. 7)

12. Motions (Local Rule 7)

As stated above, a motion is an application to the Court asking that the Court take certain action with respect to the conduct of the case.

Unless made orally during a hearing or trial, motions should be in writing, should state the action sought, and should set forth the facts. Motions are the primary way for litigants to ask the Court to take action in a case. They must be filed with the Clerk, and copies must be mailed to all opposing parties (L.R. 5); motions should not be sent directly to the judges.

Every motion must have a statement that the movant has conferred with opposing counsel and was unable to reach an agreement for the disposition of the matters raised in the motion. Failure to comply with this rule may result in the Court striking the motion.

Each party opposing a motion has twenty-one (21) days from the date of filing of a motion to respond. Failure to respond will be taken as a representation of no opposition.

13. Failure to Pursue the Lawsuit

Once a case has been filed, it is extremely important for a plaintiff to be diligent in pursuing the case. The plaintiff has an obligation to attempt to make the case ready for trial. All parties must make their best efforts to complete discovery into the facts of the case within the time limits and in accordance with the procedures. In addition, a plaintiff must obey all orders of the Court that may issue in the case and must appear for all conferences or hearings which a judge may schedule. Failure to do so is grounds for dismissal or sanctions.

14. Certificate of Service

Every paper sent to the clerk must have at the end a signed statement that you have sent a

copy of that paper to all parties in the case. You must, of course, actually send everyone a copy of every paper you file.

15. Court Appointed Attorneys

Motions for the appointment of an attorney are not ordinarily granted, as there are no funds for the payment of their services. However, in some special instances the Court may appoint an attorney for a party.

16. Personnel in the Office of the Clerk

The deputy clerks in the U.S. District Clerk's Office are there to help you. Please note, however, that they will try to assist you, but deputy clerks are not allowed to complete the forms for you, nor to make copies for you free of charge. Deputy clerks are not lawyers and cannot advise you on legal matters.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
_____ DIVISION

versus

§
§
§
§
§
§

CIVIL ACTION NO. _____

EMPLOYMENT DISCRIMINATION COMPLAINT

1. This action is brought under Title VII of the Civil Rights Act of 1964 for employment discrimination. Jurisdiction is conferred by Title 42 United States Code, Section § 2000e-5.

2. The Plaintiff is: _____
Address: _____

County of Residence: _____

3. The defendant is: _____
Address: _____

Check here if there are additional defendants. List them on a separate sheet of paper with their complete addresses.

4. The plaintiff has attached to this complaint a copy of the charges filed on _____ with the Equal Opportunity Commission.

5. On the date of _____, the plaintiff received a Notice of Right to Sue letter issued by the Equal Employment Opportunity Commission; a copy is attached.

6. Because of the plaintiff's:

- (a) race
- (b) color
- (c) sex
- (d) religion
- (e) national origin,

the defendant has:

- (a) failed to employ the plaintiff
- (b) terminated the plaintiff's employment
- (c) failed to promote the plaintiff
- (d) other: _____

7. When and how the defendant has discriminated against the plaintiff:

8. The plaintiff requests that the defendant be ordered:

- (a) to stop discriminating against the plaintiff
- (b) to employ the plaintiff
- (c) to re-employ the plaintiff
- (d) to promote the plaintiff

(e) to _____

_____ and that;

(f) the Court grant other relief, including injunctions, damages, costs and attorney's fees.

(Signature of Plaintiff)

Address: _____

Telephone: _____

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
_____ DIVISION

versus

§
§
§
§
§
§
§

CIVIL ACTION NO. _____

ORIGINAL COMPLAINT

UNITED STATES DISTRICT COURT

for the

_____ District of _____

_____)	
Plaintiff)	
v.)	Civil Action No.
_____)	
Defendant)	

APPLICATION TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING FEES OR COSTS (Short Form)

I am a plaintiff or petitioner in this case and declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief requested.

In support of this application, I answer the following questions under penalty of perjury:

1. *If incarcerated.* I am being held at: _____.
If employed there, or have an account in the institution, I have attached to this document a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months for any institutional account in my name. I am also submitting a similar statement from any other institution where I was incarcerated during the last six months.

2. *If not incarcerated.* If I am employed, my employer's name and address are:

My gross pay or wages are: \$ _____, and my take-home pay or wages are: \$ _____ per
(specify pay period) _____.

3. *Other Income.* In the past 12 months, I have received income from the following sources (check all that apply):

- | | | |
|--|------------------------------|-----------------------------|
| (a) Business, profession, or other self-employment | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (b) Rent payments, interest, or dividends | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (c) Pension, annuity, or life insurance payments | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (d) Disability, or worker's compensation payments | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (e) Gifts, or inheritances | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (f) Any other sources | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

If you answered "Yes" to any question above, describe below or on separate pages each source of money and state the amount that you received and what you expect to receive in the future.

4. Amount of money that I have in cash or in a checking or savings account: \$ _____ .

5. Any automobile, real estate, stock, bond, security, trust, jewelry, art work, or other financial instrument or thing of value that I own, including any item of value held in someone else's name (*describe the property and its approximate value*):

6. Any housing, transportation, utilities, or loan payments, or other regular monthly expenses (*describe and provide the amount of the monthly expense*):

7. Names (or, if under 18, initials only) of all persons who are dependent on me for support, my relationship with each person, and how much I contribute to their support:

8. Any debts or financial obligations (*describe the amounts owed and to whom they are payable*):

Declaration: I declare under penalty of perjury that the above information is true and understand that a false statement may result in a dismissal of my claims.

Date: _____

Applicant's signature

Printed name

UNITED STATES DISTRICT COURT

for the

_____ District of _____

_____)
Plaintiff)
v.) Civil Action No.
_____)
Defendant)

ORDER TO PROCEED WITHOUT PREPAYING FEES OR COSTS

IT IS ORDERED: The plaintiff's application under 28 U.S.C. § 1915 to proceed without prepaying fees or costs is:

[] Granted:

The clerk is ordered to file the complaint and issue a summons. The United States marshal is ordered to serve the summons with a copy of the complaint and this order on the defendant(s). The United States will advance the costs of service. Prisoner plaintiffs are responsible for full payment of the filing fee.

[] Granted Conditionally:

The clerk is ordered to file the complaint. Upon receipt of the completed summons and USM-285 form for each defendant, the clerk will issue a summons. If the completed summons and USM-285 forms are not submitted as directed, the complaint may be dismissed. The United States marshal is ordered to serve the completed summons with a copy of the complaint and this order on the defendant(s). The United States will advance the costs of service. Prisoner plaintiffs are responsible for full payment of the filing fee.

[] Denied:

This application is denied for these reasons:

Date: _____

Judge's signature

Printed name and title

UNITED STATES DISTRICT COURT

for the

_____ District of _____

_____)	
<i>Plaintiff</i>)	
)	
v.)	Civil Action No.
)	
_____)	
<i>Defendant</i>)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*: _____
_____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

UNITED STATES DISTRICT COURT

for the

_____ District of _____

Plaintiff

v.

Defendant

}

Civil Action No. _____

NOTICE OF A LAWSUIT AND REQUEST TO WAIVE SERVICE OF A SUMMONS

To: _____
(Name of the defendant or - if the defendant is a corporation, partnership, or association - an officer or agent authorized to receive service)

Why are you getting this?

A lawsuit has been filed against you, or the entity you represent, in this court under the number shown above. A copy of the complaint is attached.

This is not a summons, or an official notice from the court. It is a request that, to avoid expenses, you waive formal service of a summons by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within _____ days *(give at least 30 days, or at least 60 days if the defendant is outside any judicial district of the United States)* from the date shown below, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped, self-addressed envelope or other prepaid means for returning one copy. You may keep the other copy.

What happens next?

If you return the signed waiver, I will file it with the court. The action will then proceed as if you had been served on the date the waiver is filed, but no summons will be served on you and you will have 60 days from the date this notice is sent (see the date below) to answer the complaint (or 90 days if this notice is sent to you outside any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will arrange to have the summons and complaint served on you. And I will ask the court to require you, or the entity you represent, to pay the expenses of making service.

Please read the enclosed statement about the duty to avoid unnecessary expenses.

I certify that this request is being sent to you on the date below.

Date: _____

Signature of the attorney or unrepresented party

Printed name

Address

E-mail address

Telephone number

UNITED STATES DISTRICT COURT

for the

District of _____

_____)	
<i>Plaintiff</i>)	
v.)	Civil Action No.
_____)	
<i>Defendant</i>)	

WAIVER OF THE SERVICE OF SUMMONS

To: _____
(Name of the plaintiff's attorney or unrepresented plaintiff)

I have received your request to waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case.

I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, but that I waive any objections to the absence of a summons or of service.

I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within 60 days from _____, the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

Date: _____

Signature of the attorney or unrepresented party

Printed name of party waiving service of summons

Printed name

Address

E-mail address

Telephone number

Duty to Avoid Unnecessary Expenses of Serving a Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. A defendant who is located in the United States and who fails to return a signed waiver of service requested by a plaintiff located in the United States will be required to pay the expenses of service, unless the defendant shows good cause for the failure.

"Good cause" does not include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.

HELPFUL ADDRESSES IN THE EVENT THE
UNITED STATES IS NAMED A DEFENDANT

United States Attorney General
Department of Justice
10th and Constitution Ave., N.W.
Washington, DC 20530

UNITED STATES ATTORNEY'S OFFICE:

Houston/Galveston Division:

Mail: P.O. Box 61129
Houston, TX 77208

Delivery: 910 Travis, Suite 1500
Houston, TX 77002

Designated Agents: JoAnn Bohman, Linda Bowen, Felicia Dugas, Peggie Guillory, Patricia Skoff, Marie Southern, Gertrude Nelson, Marianne Bailey, Carrie Patterson, John Fonville.

Brownsville Division:

600 E. Harrison St., Ste. 201
Brownsville, Texas 78520

Corpus Christi Division:

400 Main, Room 505
Corpus Christi, TX 78401

Laredo Division:

1300 Matamoros, Room 200
Laredo, TX 78040

McAllen Division:

1701 W. Highway 83, Suite 858
McAllen, TX 78501-5159